HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 902 of 2006

1. Anup Kumar s/o Kishan Das R/o E-332 Gali No. 69 West Vinod Nagar, P.S. Mandawali, Delhi –92 U.D.C. c/o Chief Administrative Officer, E. Bl;ock, Saina Bhawan, New Delhi
2. Ramesh Kumar s/o Kishan Das
3. Smt. Savita w/o Ramesh Kumar, Both R/o 3304 Dhobi Katra Delhi Gate, P.S. Dariya Ganj, Delhi

.... Applicants.

Versus

1. State of Uttaranchal
2. Devendra Bisht s/o Sri Shyam Singh R/o village Kundeshwari, P.S. Kashipur, District U.S. Nagar

.....Respondents

Dated: 30.11.06

Hon'ble Rajesh Tandon, J.

Heard Sri Rattan Lal counsel for the applicants and learned A.G.A. for the respondents.

By the present application under section 482 Cr.P.C. the applicants have prayed for quashing the proceedings in criminal case No. 2447/2006 under sections 498A, 323, 504, 506 I.P.C. and Sec. ¾ Dowry Prohibition Act, P.S. Kashipur, pending in the court of Addl. Judicial Magistrate, Kashipur.

Briefly stated, applicant no. 1 Anup Kumar was married with the sister of opposite party no.2 Smt. Neelam on 24.4.2004. The complaint was lodged against the applicants under section 156 (3) Cr.P.C. on the ground that the applicants are harassing Smt. Neelam and treating her with cruelty for

want of sufficient dowry. Complainant also informed the Police of P.S. Mandawali, New Delhi on 30.3.2006. The Police has submitted charge sheet in the case after investigation and the Magistrate has taken cognizance in the case on the basis of charge sheet.

In view of the above, I am not observing anything on the merits of the controversy. The Magistrate has taken cognizance under sections 498-A, 323, 504, 506 I.P.C. and Sec. 3/4 of Dowry Prohibition Act. Counsel for the applicants has submitted that applicant no. 2, Ramesh Kumar has already obtained bail from the trial Court.

So far as the instant petition under section 482 Cr.P.C. is concerned no interference can be made under section 482 Cr.P.C. as both the parties will be at liberty to lead the evidence in view of the observations made by the Apex Court in the case Medchl Chemicals and Pharma (P) Ltd. vs. Biological E. Ltd. and others (2003) 3 SCC 269.

Applicant no. 3 is a lady, applicant no. 1 is the husband. Apart from that charge sheet has already been submitted.

Since the trial has to take place for the offences under aforesaid sections, therefore, without expressing any opinion on the merits of the case, I direct the applicants to appear before the Chief Judicial Magistrate and their bail applications shall be considered expeditiously, on the same day as the applicant no. 3 is a lady and the matter arises out of the proceedings under section 156(3) of the Code of Criminal Procedure.

Subject to the observations made above, application under Section 482 Cr.P.C. is disposed of.

Rajesh Tandon, J.

Dated: 30.11.2006
*Dhyani